

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x **No. 23-CV-3825**

MALIK MCCAIN,

Plaintiff,

NOTICE OF REMOVAL

-against-

THE CITY OF NEW YORK; METROPOLITAN
TRANSPORTATION AUTHORITY; OFFICER JOHN
DOE; OFFICER JANE DOE; WAILOK WONG,
SHIELD NO. 12002; JASON F. FARRELL, SHIELD NO.
19867,

Defendants,

-----X

EXHIBIT B
Plaintiff's Affidavits of Service filed in the Supreme Court of the State of New
York, Queens County

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS**

MALIK MCCAIN,

Plaintiff,

-against-

**THE CITY OF NEW YORK;
METROPOLITAN TRANSPORTATION
AUTHORITY; OFFICER JOHN DOE;
OFFICER JANE DOE; WAILOK WONG,
SHIELD NO. 12002; JASON F.
FARRELL, SHIELD NO. 19867,**

Defendants.

Index No.:

AFFIRMATION OF SERVICE

I, Sara Wolkenstorfer, an attorney duly admitted to practice law before the courts of the State of New York, hereby affirms the following is true under the penalties of perjury:

On April 20, 2023, I personally served the within Summons and Complaint on Defendant City of New York by emailing the same to the City's electronic service email at: serviceECF@law.nyc.gov.

Dated: New York, New York
April 27, 2023

Rickner PLLC

By:


Sara Wolkenstorfer

14 Wall Street, Suite 1603
New York, New York 10005
Phone: (212) 300-6506
Fax: (888) 390-5401

Attorneys for Plaintiff

708237/2023 Malik McCain v. The City of New York et al

From: Sara Wolkensdorfer <sara@ricknerpllc.com>
To: ServiceECF (Law) <ServiceECF@law.nyc.gov>
Subject: 708237/2023 Malik McCain v. The City of New York et al
Date: Thursday, April 20, 2023 2:52 PM
Size: 320 KB

Hi, please see attached.

Sara Wolkensdorfer (she/her)
Associate
929-419-5916
Sara@ricknerpllc.com
www.ricknerpllc.com

708237_2023_Malik_McCain_v_The_City_of_New_York_et_al_SUMMONS____COMPLAINT_1.pdf 232 KB

Proof of service receipt

From: ServiceECF (Law) <ServiceECF@law.nyc.gov>
To: Sara Wolkensdorfer <sara@ricknerpllc.com>
Subject: Proof of service receipt
Date: Thursday, April 20, 2023 2:53 PM
Size: 20 KB

This email confirms receipt of email and constitutes proof of service at the Office of the Corporation Counsel for the City of New York. Please retain it for your records. Please note that the Office of the Corporation Counsel has accepted service only for the City of New York and entities for which the Law Department is authorized to accept service, including the Mayor and City Agency Heads named in their official capacities. Service of process on any individually named parties has not been accepted.

Documents must be submitted as attachments; linked documents will not be accessed and will not be considered as proper service on the New York City Law Department. All documents submitted after 5:00PM will be considered served on the next business day.

Please be reminded that the Law Department Service Window remains open to accept service of papers on Tuesdays and Thursdays from 9:00 am until 5:00 pm.

Service of process on individuals should continue to proceed in a manner required by applicable law.

This mailbox is only monitored for service. Please call (212) 356-1140 with any questions or concerns.

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF QUEENS

GPS and Timestamp: 40.58640603911864, -73.8159146626236 1682517208002

Plaintiff / Petitioner:

MALIK MCCAIN

Defendant / Respondent:

THE CITY OF NEW YORK ET AL

AFFIDAVIT OF SERVICE

Index No:

708237/2023

The undersigned being duly sworn, deposes and says; deponent is not a party herein, is over 18 years of age and resides at County of Nassau. That on Wed, Apr 26 2023 AT 09:54 AM AT 92-24 Rockaway Beach Blvd 100TH PCT, Far Rockaway, NY 11693 deponent served the within summons and verified complaint and notice of commencement by electronic filing on POLICE OFFICER JASON F FARRELL

- ☐ Individual: by delivering a true copy of each to said defendant, personally; deponent knew the person so served to be the person described as said defendant therein.
- ☐ Corporation/Entity: _____ a defendant, therein named, by delivering a true copy of each to _____ personally, deponent knew said corporation so served to be the corporation described, and knew said individual to be _____ thereof.
- ☒ Suitable Person: by delivering thereat, a true copy of each to Sergeant Jimenez a person of suitable age and discretion.
- ☐ Affixing to Door: by affixing a true copy of each to the door thereof, deponent was unable with due diligence to find defendant, or a person of suitable age or discretion thereat, having called thereon; at _____
- ☒ Mailing: Deponent also enclosed a copy of same, in a postpaid sealed wrapper marked Personal & Confidential and not indicating on the outside thereof, properly addressed to said defendant at defendant's last known residence/workplace, 92-24 Rockaway Beach Blvd 100TH PCT, Far Rockaway, NY 11693, and depositing said wrapper in a post office, official depository under the exclusive care and custody of the United States Post Office within New York State on Wed, Apr 26 2023 by REGULAR FIRST CLASS MAIL in an envelope marked **PERSONAL & CONFIDENTIAL** and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served.
- ☒ Military Service: I asked the person spoken to whether defendant was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. *Defendant wore ordinary civilian clothes and no military uniform.* The source of my information and the ground of my belief are the conversations and observations above narrated. Upon information and belief I aver that the defendant is not in the military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Description:

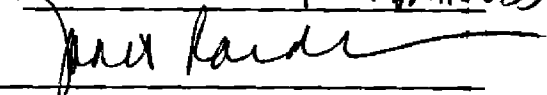
Age: 40 Ethnicity: Hispanic Gender: Male Weight: 180
Height: 5'5" Hair: Black Eyes: Brown Relationship: Co worker
Other _____

Said documents were conformed with index number and date of filing endorsed thereon.

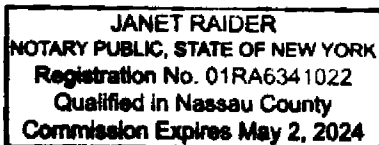
Sworn to before me on



Mitchell Raider
1450036

This 27th day of April 2023


Notary Public



SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF QUEENS

GPS and Timestamp: 40.585944318488565, -73.81659152862208 1682517077315

Plaintiff / Petitioner:

MALIK MCCAIN

Defendant / Respondent:

THE CITY OF NEW YORK ET AL

AFFIDAVIT OF SERVICE

Index No:

708237/2023

The undersigned being duly sworn, deposes and says; deponent is not a party herein, is over 18 years of age and resides at County of Nassau. That on Wed, Apr 26 2023 AT 09:51 AM AT 92-24 Rockaway Beach Blvd 100TH PCT, Far Rockaway, NY 11693 deponent served the within summons and verified complaint and notice of commencement by electronic filing on POLICE OFFICER WAILOK WONG

- ☐ Individual: by delivering a true copy of each to said defendant, personally; deponent knew the person so served to be the person described as said defendant therein.
- ☐ Corporation/Entity: _____ a defendant, therein named, by delivering a true copy of each to _____ personally, deponent knew said corporation so served to be the corporation described, and knew said individual to be _____ thereof.
- ☒ Suitable Person: by delivering thereat, a true copy of each to Sergeant Jimenez a person of suitable age and discretion.
- ☐ Affixing to Door: by affixing a true copy of each to the door thereof, deponent was unable with due diligence to find defendant, or a person of suitable age or discretion thereat, having called thereon; at _____
- ☒ Mailing: Deponent also enclosed a copy of same, in a postpaid sealed wrapper marked Personal & Confidential and not indicating on the outside thereof, properly addressed to said defendant at defendant's last known residence/workplace, 92-24 Rockaway Beach Blvd 100TH PCT, Far Rockaway, NY 11693, and depositing said wrapper in a post office, official depository under the exclusive care and custody of the United States Post Office within New York State on Wed, Apr 26 2023 by REGULAR FIRST CLASS MAIL in an envelope marked **PERSONAL & CONFIDENTIAL** and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served.
- ☒ Military Service: I asked the person spoken to whether defendant was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. *Defendant wore ordinary civilian clothes and no military uniform.* The source of my information and the ground of my belief are the conversations and observations above narrated. Upon information and belief I aver that the defendant is not in the military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Description:

Age: 40 Ethnicity: Hispanic Gender: Male Weight: 170
Height: 5'5" Hair: Black Eyes: Brown Relationship: Co worker
Other _____

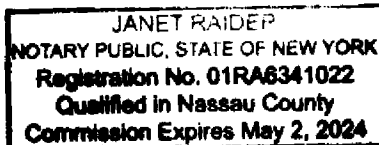
Said documents were conformed with index number and date of filing endorsed thereon.

Sworn to before me on

This 27th day of April 2023

Mitchell Raider
1450036

Notary Public



SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF QUEENS

GPS and Timestamp: 40.70535308219558, -74.01089902042784 1682434295016

Plaintiff / Petitioner:
MALIK MCCAIN
Defendant / Respondent:
THE CITY OF NEW YORK ET AL


AFFIDAVIT OF SERVICE

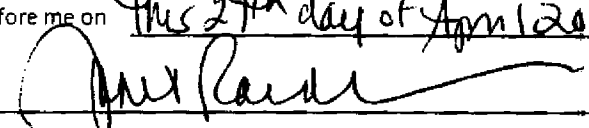
Index No:
708237/2023

The undersigned being duly sworn, deposes and says; deponent is not a party herein, is over 18 years of age and resides at County of Nassau. That on Tue, Apr 25 2023 AT 10:55 AM AT 2 BROADWAY, NEW YORK, NY 10004 deponent served the within summons and verified complaint and notice of commencement by electronic filing on METROPOLITAN TRANSIT AUTHORITY

- ☐ Individual: by delivering a true copy of each to said defendant, personally; deponent knew the person so served to be the person described as said defendant therein.
- ☒ Corporation/Entity: METROPOLITAN TRANSIT AUTHORITY a defendant, therein named, by delivering a true copy of each to John Doe personally, deponent knew said corporation so served to be the corporation described, and knew said individual to be Clerk thereof.
- ☐ Suitable Person: by delivering thereat, a true copy of each to _____ a person of suitable age and discretion.
- ☐ Affixing to Door: by affixing a true copy of each to the door thereof, deponent was unable with due diligence to find defendant, or a person of suitable age or discretion thereat, having called thereon; at _____
- ☐ Mailing: Deponent also enclosed a copy of same, in a postpaid sealed wrapper marked Personal & Confidential and not indicating on the outside thereof, properly addressed to said defendant at defendant's last known residence/workplace, _____ and depositing said wrapper in a post office, official depository under the exclusive care and custody of the United States Post Office within New York State on _____ by REGULAR FIRST CLASS MAIL in an envelope marked PERSONAL & CONFIDENTIAL and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served.
- ☐ Military Service: I asked the person spoken to whether defendant was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Defendant wore ordinary civilian clothes and no military uniform. The source of my information and the ground of my belief are the conversations and observations above narrated. Upon information and belief I aver that the defendant is not in the military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Description:
Age: 40 Ethnicity: African American Gender: Male Weight: 170
Height: 5'10" Hair: Black Eyes: Brown Relationship: Clerk
Other _____

Said documents were conformed with index number and date of filing endorsed thereon.
Sworn to before me on this 27th day of April 2023


Mitchell Raider
1450036
Notary Public 

JANET RAIDER
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01RA6341022
Qualified in Nassau County
Commission Expires May 2, 2024